

REMARKS

A substitute paragraph for the specification has been provided to correct the typographical error noted by the Examiner, and claim 15 has been amended to properly identify the antecedent for the term “main body”.

To anticipate a claim “[t]he identical invention must be shown in as complete detail as is contained in the ... claim” (*Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989)) and “[t]he elements must be arranged as required by the claim...” (*In re Bond*, 910 F.2d 831, 15 USPQ2d 1566 (Fed. Cir. 1990)). With regard to the rejection based on Chaux ‘552, it is respectfully submitted that the Examiner is not properly applying the teachings of the Chaux patent under Sect. 102. Claim 1 at hand defines “[a] lifting tool for use in combination with a chest retractor” and sets forth the structure of the lifting tool. The Examiner in his rejection of claims 1-6, 8, 12 and 13 equates structural elements of the chest retractor taught in Chaux to the claimed structural elements of the lifting tool of the application. The structural elements of the Chaux chest retractor cannot anticipate under Sect. 102(b) the structural elements of Applicants’ lifting tool, which is used with a chest retractor. Under the Examiner’s interpretation, the Chaux chest retractor would be used with itself.

Furthermore, the Examiner is ignoring the actual words in the claims and not providing them with their standard and accepted meanings. For example, the claims require “a main body”, which is well defined in the specification and appears as element 11 in the drawings. The Examiner states that the combination of elements 10, 26, 8, 32 and 12 in Chaux anticipate this main body of the claims, with element 10 being the “foot member” of the claims, elements 26, 8 and 32 being the “elevation wall member” of the claims, element 12 being the “mounting flange member”, and elements 22, 24 being the “extended hook members” of the claims. Element 10 of

Chaux is defined in the patent to be a retractor arm, and elements 26 and 32 are bodies movable along the rack bar, which is element 8. Element 12 of Chaux is another spreader arm. Thus the examiner is stating that the combination of a rack bar 8, and two cylindrical bodies 26 and 32 movable relative to element 8 anticipates an “elevation wall member”, and that the combination of these elements plus two retractor arms anticipates a “main body”. It is respectfully submitted that this combination of elements defines an adjustable assembly, not a “main body” as the term is used in thousands of patents and clearly presented in the disclosure of the application at hand. Asserting this combination as anticipating the claimed structure is not a proper application of the rules and case law applicable to Section 102 or 103 rejections.

Claims 1, 3 and 12 are also rejected under Section 102(a) as anticipated by Koros et al. ‘382. The Examiner states that element 28 of Koros is the structure that anticipates the “main body” of Applicants’ claims, in that element 28 has “a generally C-shaped configuration comprising a foot member 54, an elevation wall member 44, 46, a mounting flange member and a pair of extended hook members 38 mounted to the flange member”. As previously discussed, the Examiner is again using an adjustable assembly of elements as the basis for anticipation of the “main body” required by the claims, and Applicants restate that this is not proper. Element 28 of Koros is defined in the patent to be an “adjustable lifter blade assembly” having approximately six separate components that are threadingly and pivotally adjustable relative to each other, which as previously discussed cannot be anticipatory structure to a “main body” as claimed. Element 54 of Koros is a tapered blade portion which is the equivalent in function to the hook members of the claims, and therefore cannot anticipate the foot member of the claims. The structure of Koros identified as being equivalent to the “mounting flange member” of the claims receives the hangers 38, which are not equivalent structure to the hook members of the

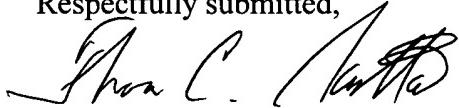
claims. Finally, it is further submitted that the adjustable lifter blade assembly 28 (the combination of elements 54, 44, 46, 48, 50, 56, 58, 60, 38, 32, 42 40 and 36) cannot reasonably be considered as having a “generally C-shaped configuration” as required by the claims.

To state Applicants’ argument against the Section 102 rejections based on Chaux and Koros in different terms, it is impossible to reasonably argue that the devices set forth in Chaux and Koros anticipate the claimed invention, given the definitional contortions that must be utilized to apply the structural elements of Chaux and Koros to the claim language.

On the basis of the above, it is submitted that the Section 103 rejections of claims 7, 11 and 15 are likewise not supported.

It is respectfully submitted that all the claims as presented are patentable, on the basis of the above remarks, and reconsideration and subsequent passage for allowance is hereby requested.

Respectfully submitted,



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